

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH MARCH 2007 / 21ST PHALGUNA 1928

WP(C).No. 8195 of 2007(A)

CMP.6/2007 of J.M.F.C.-II,PATHANAMTHITTA
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PETITIONER:

P.D.JOSEPH, AGED 43 YEARS,
S/O.OOMMEN DANIEL, PALAMOOTTIL PUTHENVEEDU,
PATTOOR P.O., NOORANADU, PANDALAM.

BY ADV. SRI.SEBASTIAN PHILIP
SRI.R.ANIL

RESPONDENTS:

1. BINDU JOSEPH, AGED 36 YEARS,
D/O.K.T.BABY, INDIKKATTIL VEEDU,
VAKAYAR P.O., KONNI, PATHANAMTHITTA.
2. THANIYA AAN JOSEPH (MINOR), AGED 8
YEARS, C/O.BINDU JOSEPH, -DO- -DO-
3. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY GOVERNMENT PLEADER SRI.S.U.NAZER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

R.BASANT, J

W.P(C).No.8195 of 2007

Dated this the 12th day of March, 2007

JUDGMENT

Against the petitioner, proceedings have been initiated under the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the 'D.V Act'). The 1st respondent-Bindu Joseph is admittedly the wife of the petitioner though there is a contention that she is living in adultery. A petition has been filed by the 1st respondent before the Magistrate under Section 12 of the D.V Act. The learned Magistrate has not granted any interim orders, but has ordered notice to the petitioner. The petitioner has appeared before the learned Magistrate also. The petitioner apprehends that the learned Magistrate may pass interim orders which may be detrimental to the petitioner. In these circumstances, he has rushed to this Court with this petition to quash the entire proceedings initiated against the petitioner under the D.V Act.

2. I find absolutely no reason to invoke the powers under Article 227 of the Constitution. The D.V Act is essentially a piece of civil law where remedies are granted to the victims which have to be worked through the structures under the Code of Criminal Procedure. It is for the petitioner to appear before the learned Magistrate and urge his contention that the claimant/petitioner, admittedly his wife, is

not entitled to any relief under the D.V Act. I find no reason why any orders must be passed invoking the powers under Article 227 of the Constitution of India. The petitioner shall be at liberty to raise all his contentions before the learned Magistrate. I have no reason to assume that the learned Magistrate would pass any interim or final orders without properly advertng to all the contentions which the petitioner wants to raise. Section 29 of the D.V Act provides for appeal against such orders also.

3. This Writ Petition is, accordingly dismissed.

4. Hand over a copy of this order to the learned counsel for the petitioner today itself.

(R.BASANT, JUDGE)

rtr/-